IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION Nos.16654 AND 16657 OF 1999

W.P.No.16654 OF 1999

Between:

The Commissioner, Dharmavaram Municipality
Dharmavaram, Anantapur District

..... PETITIONER

AND

1 S.Adinarayana C/o.8/286, Court Road
Anantapur, Anantapur District.
2 Chairman-cum-Presiding Officer Industrial Tribunal-cum-Labour Court
Anantapur, Anantapur Dist

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ, order or direction, calling for the connected records relating to I.D.No.173/97 on the file of the Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapur and quash the award Dt.24/02/1999 and pass such other order.

WRIT PETITION NO : 16657 of 1999

Between:

The Commissioner Dharmavaram Municipality
Dharmavaram, Anantapur District

..... PETITIONER

AND

1 P.Narasimhulu C/o. 8/286, Court Road
Anantapur, Anantapur District
2 Chairman-cum-Presiding Officer Industrial Tribunal-cum-Labour Court
Anantapur, Anantapur District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ order or direction, calling for the connected records relating to I.D.No.172/97 on the file of the Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapur and quash the award Dt.24/02/1999 and pass such other order.

Counsel for the Petitioner in both writ petitions:MR.V.RAGHUNATH REDDY

Counsel for the Respondent No.1:

Counsel for the Respondent No.2: GP FOR LABOUR

The Court made the following Order :

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO.16654 AND 16657 OF 1999

ORDER:

These two writ petitions are filed by the Commissioner, Dharmavaram Muncipality, against the awards passed by the Industrial Tribunal-cum-Labour Court, Ananthapur, in I.D.Nos.173 and 172 of 1997, dated 24-02-1999.

The first respondent in these two writ petitions is the workman and the second respondent is the Labour Court.

Learned Counsel appearing for both parties submits that the issue involved in this writ petition is squarely covered by the judgment of this Court in W.P.No.9741 of 2000 and batch, dated 26-11-2003, wherein it was held as under:

> "The workmen approached the Labour Court with a plea that they have been employed by the petitioner as NMR workmen and that their services were terminated after several years without any written order or without following the procedure prescribed under the Act. It is true that the employment of a worker need not be through any written order. However, where the appointment is not evidenced by a written order, heavy burden lies on the workmen to establish that he was employed. Adequate evidence needs to be adduced, to establish the plea.
>
> Before the Labour Court, no evidence was adduced. Still, it recorded a finding that the workmen were employed by the petitioner and were in service for more than 240 days in a calender year. In the absence of any order of appointment and when the workmen did not lead any evidence to establish the factum of their having been employed, there did not exist any basis for the Labour Court to record such findings. Such an approach cannot be countenanced. If the contents of the claim petition are not even spoken to by the respective workman, it was impermissible to Labour Court to record a finding in this regard.

Consequently, the relief granted by it gets vitiated. Any further discussion in this regard is likely to have its effect on the further future course of action.

Hence, the Writ Petitions are allowed and the respective awards challenged therein are set aside. The matters are remanded to the Labour Court, Ananthapur, for fresh consideration. It is made clear that the Labour Court shall record its finding only on the basis of specific and clear evidence and not otherwise."

Following the above judgment, these two Writ Petitions are allowed setting aside the awards passed by the Industrial Tribunal-cum-Labour Court, Ananthapur, in I.D.Nos.173 and 172 of 1997, dated 24-02-1999. The matters are remanded to the Labour Court, Ananthapur, for fresh consideration. It is made clear that the Labour Court shall record its finding only on the basis of specific and clear evidence and not otherwise. No costs.

25-08-2004

usd

To

1. The Chairman-cum-Presiding Officer,

Industrial Tribunal-cum-Labour Court
Anantapur, Anantapur District.

2. Two C.Cs to G.P. for Labour A.P. High Court Buildings, Hyderabad (o.u.t.)

3. Two CD copies.